

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket № 14278US02)

In the Application of:

Jeyhan Karaoguz, et al.

Electronically Filed on July 3, 2008

Serial No. 10/675,467

Filed: September 30, 2003

For: METHOD AND SYSTEM FOR
PERSONAL CHANNEL
PROGRAMMING IN A MEDIA
EXCHANGE NETWORK

Group Art Unit: 2609

Confirmation No. 5573

Examiner: Patrick A. Ryan

PRE APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reasons stated on the attached sheets.

Respectfully submitted,

Date: July 3, 2008

By: /Joseph M. Butscher/
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REMARKS

Claims 1-7, 9-17, 19-27, 29 and 30-31 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 2002/0104099 ("Novak"). Claims 8, 18 and 28 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Novak in view of U.S. 6,868,452 ("Eager").

The Applicant respectfully submits that Novak does not anticipate claims 1-7, 9-17, 19-27, and 29-31. See June 10, 2008 Response at pages 11-18. There is nothing in Novak that describes, teaches or suggests at least the limitation of "wherein said media channel may be pushed from said first geographic location to a second geographic location," as recited by the Applicant in independent claim 1. See *id.*

Initially, the Applicants point out that the specification of the present application clearly states that **users** can create their own media channels and **push** those channels themselves to **other authorized users**. See *id.* at page 12. The portions of Novak relied on by the Office Action do not, in fact, describe, teach or suggest such limitations, as recited in claim 1. See *id.* at pages 12-16. The Applicant clearly sets forth that Novak does not describe, teach or suggest a **communication channel**, which includes personal and/or broadcast media, that is **pushed from one geographic location to another geographic location**. See *id.* at page 14.

Novak discloses, however, that media can be uploaded to a server and **a network provider** may communicate the uploaded media to an end user. *See id.* at pages 14-15. Moreover, the Applicants demonstrate that the Office Action's reliance on Figure 11 of Novak is misplaced. *See id.* at pages 15-16. Also, with regard to the "synthetic channel" capability described in [0069] of Novak, the Applicant points out that Novak's "synthetic channel" acts just like regular television programming – **an end user may tune to the programs in the channel and view them like regular television programming.** *See id.* at page 16.

In this regard, Novak does not describe, teach or suggest at least "wherein said media channel may be pushed from said first geographic location to a second geographic location," as recited in independent claim 1.

Accordingly, the Applicant respectfully submits that the Office Action has not established a *prima facie* case of anticipation with respect to the independent claims of the present application. Indeed, independent claim 1, and the claims that depend therefrom, are not anticipated by Novak. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

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Based on at least the above, the Applicant respectfully submits that the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 102(b) as being anticipated by Novak is improper and requests that the rejection be withdrawn. Additionally, claims 2-7, 9-10, 12-17, 19-20, 22-27, and 29-31 depend from independent claims 1, 11 and 21, respectively, and are, therefore, also in condition for allowance.

For at least the reasons discussed above, the Applicant respectfully submits that claims 8, 18 and 28 should also be in condition for allowance, as these claims depend from claims 1, 11 and 21, respectively.

The Commissioner is authorized to charge any necessary fees, including the \$510 fee for the Notice of Appeal, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

Date: July 3, 2008

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